

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

JULIANNA LAURA MCKENZIE,

Plaintiff,

v.

ROBESON HEALTH CARE CORPORATION,

Defendant.

Case No. 7:23-cv-00979-FL

**NOTICE OF PENDING APPEAL ON
DISPOSITIVE ISSUE AND MOTION
TO RESERVE RULING**

COMES NOW Defendant, Robeson Health Care Corporation (“RHCC”), by and through undersigned counsel, and submits this Notice of Pending Appeal on Dispositive Issue and Motion to Reserve Ruling, in which it respectfully requests that this Court reserve ruling on Defendant’s pending Motion to Dismiss and Substitute (ECF No. 14) until such time as the Fourth Circuit Court of Appeals has issued an opinion regarding the pending appeal of *Ford v. Sandhills Med. Found., Inc.*, 4:21-cv-02307, 2022 WL 1810614, at *1 (D.S.C. June 2, 2022), *on appeal*, No. 22-2268 (4th Cir.) (oral argument held on Dec. 7, 2023).

Before this Court is Defendant’s Motion to Dismiss and Substitute (ECF No. 14), which requires this Court to determine whether Plaintiff’s claims fall within the scope of claims for which Defendant RHCC is entitled to FTCA coverage. Defendant’s Motion, Plaintiff’s Response, and the Government’s Statement of Interest (ECF No. 14, 18, 20), cite extensively to *Ford v. Sandhills Med. Found., Inc.*—one of only two cases addressing this issue within the Fourth Circuit. *Ford v. Sandhills Med. Found., Inc.* 4:21-cv-02307, 2022 WL 1810614 (D.S.C. June 2, 2022). Notably, the Court in *Ford* held, “[t]he alleged data breach arose out of Sandhills’s performance of medical or related functions within the scope of its employment as a deemed PHS employee. Thus, the Court will grant Sandhills’s motion to substitute.” *Id.* at *13-14.